

U.S. DISTRICT COURT
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED-EDS

02C 50000

GREENWICH INDUSTRIES, L.P. d/b/a CLARIN,

Plaintiff,

v.

SPECIALIZED SEATING, INC. AND
DON SANDERFUR,

Defendants.

DOCKETED
JUL 17 2002

) Civil Action No. _____
)
) The Honorable JUDGE CONLON
)
) Magistrate Judge _____
) **MAGISTRATE JUDGE LEVIN**
) **JURY TRIAL DEMANDED**
)

COMPLAINT

Plaintiff, Greenwich Industries, L.P. d/b/a Clarin ("Clarin"), complains against Defendants, Specialized Seating, Inc. ("Specialized Seating") and Don Sanderfur ("Sanderfur") as follows:

PARTIES

1. Clarin is a division of Greenwich Industries, L.P., a Delaware limited partnership having a principal place of business in Lake Bluff, Illinois. Clarin is in the business of manufacturing and selling seating products and seating systems.

2. Specialized Seating, on information and belief, is a corporation organized under the laws of the State of Nevada, is licensed to do business in Illinois, and has a principal place of business at 3409 Church Street, Evanston, Illinois 60203. On information and belief, Specialized Seating is in the business of selling seating products.

3. Don Sandefur, on information and belief, is an individual who is a sales representative of Specialized Seating and doing business at 2461 Old Salem Circle, Conyers, Georgia 30013.

NATURE OF ACTION AND JURISDICTION

4. This is an action for trademark infringement regarding a chair sold by Defendants that is a copy of Clarin's signature "X-frame" folding chair. Clarin has trademark rights in the product configuration of the X-frame chair.

1-1

5. This Court has jurisdiction over this action pursuant to 15 U.S.C. §1121 and pursuant to 28 U.S.C. §1332 (the amount in controversy being in excess of \$75,000 exclusive of interest and costs), §1338 and §1367.

FACTS COMMON TO ALL COUNTS

6. Clarin's unique X-frame design folding chair is a high quality metal folding chair with a unique product configuration, including the X design formed by the frame of the chair, the tapered back, the double tube and channel frame material, and other unique features in configuration of the chair.

7. Clarin's advertising and marketing materials have showcased the unique X-frame chair design as the signature trademark of Clarin. Clarin has sold tens of thousands of its unique X-frame chair to thousands of customers across the United States since at least 1987, and has sold a substantially similar design since at least as early as 1925. The unique configuration of the design and construction of the chair has become the flagship trademark of the company.

8. As a result of the above-referenced advertising, sales and marketing, Clarin's signature X-frame chair design has become known in the market as being non-functional and serving primarily to identify Clarin as the supplier of the chair. Clarin has established valuable trademark rights and associated goodwill by such exclusive use of the signature X-frame chair design.

9. On information and belief, Specialized Seating and Sanderfur have begun offering for sale and selling a copy of Clarin's signature X-frame chair design. Specialized Seating's website advertises the X-frame copy chair by showing pictures of it as used by the Chicago Bulls. On information and belief, Specialized Seating's X-frame chair is Taiwanese-made, is of inferior quality, and is offered at a lower price than the price offered by Clarin for its U.S.-made, superior quality, X-frame chair.

10. All the foregoing acts of Defendants have caused, and unless restrained by this Court, will continue to cause, serious and irreparable injury, including, but not limited to, loss of competitive advantage, loss of business reputation and goodwill, loss of sales and profits, and other losses, for which Clarin has no adequate remedy at law.

COUNT I
FALSE DESIGNATION OF ORIGIN UNDER LANHAM ACT

11. Clarin incorporates by reference herein paragraph nos. 1-10.

12. The foregoing acts of Defendants constitute willful false designation of origin and violation of the Lanham Act, 15 U.S.C. §1125(a).

COUNT II
COMMON LAW UNFAIR COMPETITION

13. Clarin incorporates herein by reference paragraph nos. 1-12.

14. The foregoing acts of Defendants constitute willful trademark infringement and unfair competition in violation of the common law of Illinois and/or other States.

COUNT III
CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT

15. Clarin incorporates herein by reference paragraph nos. 1-14.

16. The foregoing acts of Defendants constitute willful trademark infringement and unfair competition in violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2.

COUNT IV
UNIFORM DECEPTIVE TRADE PRACTICES ACT

17. Clarin incorporates herein by reference paragraph nos. 1-16.

18. The foregoing acts of Defendants constitute willful trademark infringement and unfair competition in violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS 510/2.

PRAYER FOR RELIEF

WHEREFORE, Clarin prays for the following relief:

- 1) A preliminary injunction and a permanent injunction ordering that Defendants, and any of their principals, officers, directors, shareholders, owners, affiliates and subsidiaries, and all others acting in concert or participation with Defendants, shall not use, directly or indirectly, Clarin's unique X-frame chair design or any confusingly similar chair design;
- 2) An award of damages, including prejudgment interest, sustained by Clarin as a result of the wrongful acts of Defendants;
- 3) An increase and/or trebling of damages pursuant to 15 U.S.C. §1117, or any other applicable statutory or common law basis;
- 4) An accounting of any and all profits derived from the wrongful acts of Defendants;
- 5) An award of costs and attorney's fees pursuant to 15 U.S.C. §1117, 815 ILCS 505/10a, 815 ILCS 510/3, or any other statutory or common law basis; and
- 6) Such other and further relief as the Court may deem just and proper.

PLAINTIFF DEMANDS TRIAL BY JURY

Respectfully submitted,

Greenwich Industries, L.P. d/b/a Clarin



Karl R. Fink, Esq.

Richard W. Schumacher, Esq.

Sandra V. Scavo, Esq.

FITCH, EVEN, TABIN & FLANNERY

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Attorneys for Plaintiff

Date: July 15, 2002

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

Plaintiff(s): Greenwich Industries, L.P., d/b/a
Clarín

County of Residence: Lake County

Plaintiff's Atty: Karl R. Fink
Fitch, Even, Tabin & Flannery
120 S. LaSalle, Suite 1600,
Chicago, IL 60603
(312) 577-7000

Defendant(s): Specialized Seating, Inc. and Don
Sanderfur

County of Residence: Cook County

Defendant's Atty:

02C 5000

JUDGE CONLON

II. Basis of Jurisdiction:

3. Federal Question (U.S. not a party)

III. Citizenship of Principal
Parties (Diversity Cases Only)

Plaintiff:- N/A
Defendant:- N/A

MAGISTRATE JUDGE LEVIN

DOCKETED
JUL 17 2002

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

840 Trademark

VI. Cause of Action:

15 U.S.C. 1121 and 28 U.S.C. 1332, 1338 and 1367.

VII. Requested in Complaint

Class Action: No
Dollar Demand:
Jury Demand: Yes

VIII. This case **IS NOT** a refiling of a previously dismissed case.

Signature:

Karl R. Fink

Date:

7-15-02

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U.S. DISTRICT COURT

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it.
Once correct, print this form, sign and date it and submit it with your new civil action. **Note: You may need to adjust the font size**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

In the Matter of

Greenwich Industries, L.P., d/b/a Clarin v. Specialized Seating, Inc. and Don Sanderfur

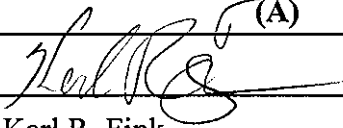
Case Number

02C 5000

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

Plaintiff, Greenwich Industries, L.P., d/b/a Clarin

JUDGE CONLON

SIGNATURE  (A)		SIGNATURE REGISTRAR JUDGE LEVIN	
NAME Karl R. Fink		NAME Richard W. Schumacher	
FIRM Fitch, Even, Tabin & Flannery		FIRM Fitch, Even, Tabin & Flannery	
STREET ADDRESS 120 South LaSalle Street, Suite 1600		STREET ADDRESS 120 South LaSalle Street, Suite 1600	
CITY/STATE/ZIP Chicago, Illinois 60603-3406		CITY/STATE/ZIP Chicago, Illinois 60603-3406	
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E-MAIL ADDRESS		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 06180508		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 3122109	
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TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
(C)		(D)	
SIGNATURE		SIGNATURE	
NAME Sandra V. Scavo		NAME DOCKETED	
FIRM Fitch, Even, Tabin & Flannery		FIRM JUL 17 2002	
STREET ADDRESS Fitch, Even, Tabin & Flannery		STREET ADDRESS	
CITY/STATE/ZIP 120 South LaSalle Street, Suite 1600		CITY/STATE/ZIP	
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E-MAIL ADDRESS		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6273003		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
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U.S. DISTRICT COURT

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